

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 02-0495
Sales Tax
Responsible Officer
For the Years 1998-2000

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ISSUES

1. Sales Tax-Imposition

Authority: IC 6-8-1-5-1(b), IC 6-8.1-5-4(a), IC 6-2.5-8-1.

The taxpayer protests the imposition of sales tax.

STATEMENT OF FACTS

From 1998 through May, 2000, the taxpayer operated a sole proprietorship marketing prepaid telephone calling cards. The Indiana Department of Revenue, hereinafter referred to as the "department," assessed sales taxes, interest and penalty against the taxpayer as sole proprietor of the business. The taxpayer protested the assessment of tax and penalty. A hearing was held and this Letter of Findings results.

1. Sales Tax-Imposition

Discussion

Indiana Department of Revenue assessments are prima facie evidence that the taxes are owed by the taxpayer who has the burden of proving that the assessment is incorrect. IC 6-8-1-5-1(b). Taxpayers are required to "keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. . ." IC 6-8.1-5-4(a).

The taxpayer purchased prepaid telephone calling cards from telephone service providers at a discounted rate. The taxpayer then sold these cards to various customers. The taxpayer never registered with the department as a registered retail merchant as required by IC 6-2.5-8-1. The taxpayer never collected sales tax. The taxpayer argued that she did not collect sales tax because her customers were all business operations such as convenience stores that then resold the cards and collected the sales tax. The taxpayer was not able, however, to produce documentation adequate to sustain her burden of proving that the department's assessment was incorrect.

Finding

The taxpayer's protest is denied.

KMA/JMM/MR--042602